

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WIMBLEDON FINANCING MASTER FUND LTD.,

Plaintiff,

-v-

BIENERT MILLER & KATZMAN, PLC and STEVEN
J. KATZMAN,

Defendants.

18 Civ. 8004 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On August 2, 2022, the Court issued an Opinion & Order resolving the parties' cross-motions for summary judgment. *See* Dkt. 102. On August 4, 2022, the Court directed the parties to file a joint letter setting out their views as to appropriate next steps, in particular, as to the causation element of the negligence and gross negligence claims, which the Court was unable to resolve definitively on summary judgment. Dkt. 104. The parties requested, and the Court granted, two extensions of the deadline for the letter. Dkts. 105, 107. On October 13, 2022, the parties filed the joint letter. Dkt. 108. The Court has carefully reviewed the letter and orders as follows.

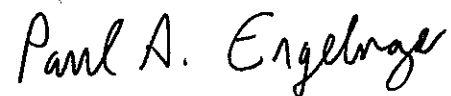
The Court's judgment is that it is productive to commission a new round of summary judgment briefing, limited to the element of causation on the above claims. That is because (1) the element of causation was relatively thinly briefed on the initial round of summary judgment motions, and (2) the Court's analysis in the Opinion & Order may sharpen the parties' assessments as to how the evidence adduced, and the law, bears on that element.

Based on the parties' joint letter and the initial round of briefing, it appears that plaintiff is the sole party that intends to move for summary judgment as to this element. Accordingly, the

Court directs that plaintiff file an opening brief of up to 25 pages by November 16, 2022; defendants file an opposition of up to 25 pages by December 9, 2022; and plaintiff file a reply of up to 15 pages by December 23, 2022. For avoidance of doubt, the parties are to limit their briefing to the causation element; the Court does *not* authorize briefing on any other subject or reconsideration of any determination in the Opinion & Order other than as to the causation element. The Court expects that the parties will draw upon their existing Joint Statement of Facts (“JSF”), Dkt. 66, and does not perceive a basis to ask the parties to augment the existing JSF.

Upon receipt of the additional briefing, the Court will determine whether summary judgment can properly be entered, or whether the case must instead proceed to trial. In the meantime, the Court continues to encourage counsel to pursue an amicable resolution of this matter.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: October 25, 2022
New York, New York